

**CreditIN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

KEN JOSEPH,

Plaintiff,

v.

CREDIT ONE BANK

Defendant.

§
§
§
§
§
§
§
§
§
§
§

Case No.

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, defendant, Credit One Bank, N.A. (“Credit One”), through undersigned counsel and pursuant to 28 U.S.C. §§ 1331, 1441, and 1446 *et seq.*, hereby removes this action from the Magistrate Court of Gwinnett County, State of Georgia to the United States District Court for the Northern District of Georgia. In support of this Notice of Removal, Credit One states as follows:

1. On September 26, 2016, plaintiff, Ken Joseph (plaintiff), commenced a civil action in the Magistrate Court of Gwinnett County, State of Georgia, entitled and captioned *Ken Joseph v. Credit One Bank*, Case No. 16M27970

(hereinafter the “State Court Action”). No further proceedings before the State Court have occurred.

2. In the Complaint, plaintiff alleges statutory causes of action against Credit One under the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227, *et seq.* A true and correct copy of plaintiff’s Complaint is attached hereto as Exhibit “A.” Therefore, this Court has jurisdiction over the State Court Action pursuant to 28 U.S.C. § 1331 because plaintiff’s Complaint alleges a cause of action arising under the laws of the United States. Because plaintiff affirmatively alleges violations of the TCPA, the Complaint asserts a federal question under 28 U.S.C. § 1331 and is removable pursuant to 28 U.S.C. § 1441.

3. On September 29, 2016, Credit One was served with a copy of the Summons and Complaint.

4. The time within which Credit One is required by the laws of the United States, 28 U.S.C. § 1446(b), to file this notice of removal has not yet expired. This Notice of Removal is timely, having been filed within 30 days of the date on which Credit One was served with plaintiff’s Complaint. *See* 28 U.S.C. § 1446.

5. The Magistrate Court of Gwinnett County, State of Georgia is located within the United States District Court for the Northern District of Georgia.

Therefore, venue for purposes of removal is proper pursuant to 28 U.S.C. § 89(b) because the United States District Court for the Northern District of Georgia embraces the place in which the removed action was pending. 28 U.S.C. § 1441(a).

6. Written notice of this Notice of Removal of this action is being immediately provided to the Magistrate Court of Gwinnett County, State of Georgia. *See* Exhibit “B” attached hereto.

7. Written notice of this Notice of Removal of this action is being caused to be served on the plaintiff.

WHEREFORE, defendant, Credit One Bank, N.A., gives notice that this action is removed from the Magistrate Court of Gwinnett County, State of Georgia, to the United States District Court for the Northern District of Georgia.

Dated: October 28, 2016

Respectfully Submitted,

/s/ Wendi E. Fassbender

Wendi E. Fassbender, Esq.

GA Bar No. 179133

Sessions, Fishman, Nathan & Israel, L.L.C.

14 Coopers Glen Drive, SW

Mableton, GA 30126-2584

Telephone: (678) 209-7492

Facsimile: (877) 480-5639

E-mail: wfassbender@sessions.legal

Attorney for Defendant,

Credit One Bank, N.A.

CERTIFICATE OF SERVICE

I hereby certify that on October 28, 2016 a copy of the foregoing was electronically filed with the Clerk of the Court, United States District Court for the Northern District of Georgia, Atlanta Division, and served via Federal Express upon the following:

Ken Joseph – Pro Se
596 Middleton Place
Grayson, GA 30017
Email: sem252525@aol.com

I additionally certify that the above-referenced document has been prepared in Times New Roman (14 point) font and this satisfies the font size requirements of this Court.

/s/ Wendi E. Fassbender
Wendi E. Fassbender, Esq.
GA Bar No. 179133
Sessions, Fishman, Nathan & Israel, L.L.C.
14 Coopers Glen Drive, SW
Mableton, GA 30126-2584
Telephone: (678) 209-7492
Facsimile: (877) 480-5639
E-mail: wfassbender@sessions.legal

*Attorney for Defendant,
Credit One Bank, N.A.*